

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

Date of Notice: October 6, 2004

Public Notice Number: PN2004-0012

Comment Period: October 6, 2004 - November 4, 2004

Action: Notice of Proposed Assessment of Class II Clean Water Act Section 309(g)(2)(B) Administrative Penalties and Opportunity to Comment

Under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), EPA is authorized to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons public notice of the proposed penalty and a reasonable opportunity to comment on its issuance. In Class II proceedings under Section 309(g)(2)(B), any person who violates certain provisions of the Clean Water Act may be administratively assessed a civil penalty of up to \$10,000 per violation per day for each day during which the violation continues, up to a maximum of \$125,000. Pursuant to 40 C.F.R. Part 19 (Adjustments of Civil Penalties for Inflation) promulgated pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, the maximum civil penalties that may be administratively assessed have been increased as follows: For violations occurring between January 31, 1997 and March 14, 2004, up to \$11,000 per violation per day for each day during which the violation continues, up to a maximum of \$137,500; and, for violations occurring on or after March 15, 2004, up to \$11,000 per violation per day for each day during which the violation continues, up to a maximum of \$157,500. Proceedings are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and

the Revocation or Suspension of Permits," at 40 C.F.R. Part 22 ("Part 22").

The procedures by which the public may submit written comments on a proposed penalty order or participate in a penalty proceeding are set forth in Part 22. The deadline for submitting public comment on a proposed penalty order is thirty (30) days after issuance of public notice.

Pursuant to Section 309(g), EPA is providing public notice of the following proposed administrative penalty assessment:

In the Matter of Middlesex Sheriff's Office and the Commonwealth of Massachusetts

Name and Mailing Address of Respondents:

Paul E. Norton, Superintendent
Middlesex Sheriff's Office
Billerica Jail & House of Corrections
269 Treble Cove Road
Billerica, MA 01862

David B. Perini, Commissioner
Division of Capital Asset Management
Commonwealth of Massachusetts
One Ashburton Place
Boston, MA 02108

Name and Address of Facility or Site Addressed by Complaint:

Billerica Jail & House of Correction
565 Treble Cove Road
Billerica, MA 01862

Description of Business or Activity Conducted by the Respondents:

The Middlesex Sheriff's Office and the Commonwealth of Massachusetts (the "Respondents") own and operate a wastewater treatment facility (the "Facility") which treats domestic wastewater. The Facility treats and discharges treated wastewater to the Concord River, a Class B river.

Description of Violations Alleged in Complaint:

The Respondents have violated certain provisions of the Clean Water Act. Specifically, the Administrative Complaint alleges that the Respondents violated the Clean Water Act by exceeding effluent limitations for total residual chlorine, fecal coliform bacteria, total suspended solids and biochemical oxygen demand contained in their National Pollutant

Discharge Elimination System permit.

Proposed Settlement Penalty: Up to one hundred and fifty-seven thousand and five hundred dollars (\$157,500)

Name of Case:

Middlesex Sheriff's Office
Commonwealth of Massachusetts
Billerica Jail & House of Correction
565 Treble Cove Road
Billerica, MA 01862

Docket Number: 01-2004-00104

Date Filed with Regional Hearing Clerk: September 30, 2004

Name, Mailing Address, and Telephone Number of Regional Hearing Clerk:

Wanda Rivera
Regional Hearing Clerk
U.S. EPA, Region I
One Congress Street
Boston, Massachusetts 02203
(617) 918-1113.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of Part 22, review the complaint or other documents filed by the parties in this proceeding, comment upon the proposed penalty assessment, or participate in any hearing that may be held, should contact the Regional Hearing Clerk identified above. Unless otherwise noted, the public record for the proceeding is located in the EPA Regional Office at One Congress Street, Boston, Massachusetts, and the file will be open for public inspection during normal business hours.

In order to provide opportunity for public comment, EPA will not take final action in this proceeding prior to thirty (30) days after issuance of this notice.